



[4910-13-P]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2014-0234; Directorate Identifier 2013-NM-220-AD; Amendment 39-17952; AD 2014-16-28]

RIN 2120-AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (Embraer)

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Empresa Brasileira de Aeronautica S.A. (Embraer) Model EMB-135BJ airplanes. This AD was prompted by reports of failure of the bolts that connect the cockpit windshield center-post to the forward fuselage. This AD requires repetitive detailed inspections to detect discrepancies on the attaching parts of the cockpit windshield center-post; checking whether the bolts are tightened, if applicable; and modifying parts, including inspecting for and repairing damage. We are issuing this AD to prevent failed bolts and failed attaching parts of the cockpit windshield center-post, which could lead to loss of structural integrity of the airplane.

DATES: This AD becomes effective [INSERT DATE 35 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of [INSERT DATE 35 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may examine the AD docket on the Internet at

<http://www.regulations.gov/#!docketDetail;D=FAA-2014-0234> or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this AD, contact Empresa Brasileira de Aeronautica S.A. (Embraer), Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170 - Putim - 12227-901 São Jose dos Campos - SP – BRASIL; telephone +55 12 3927-5852 or +55 12 3309-0732; fax +55 12 3927-7546; email distrib@embraer.com.br; Internet <http://www.flyembraer.com>. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057-3356; telephone 425-227-1175; fax 425-227-1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Empresa Brasileira de Aeronautica S.A. (Embraer) Model EMB-135BJ airplanes. The NPRM published in the Federal Register on April 15, 2014 (79 FR 21160).

The Agência Nacional de Aviação Civil (ANAC), which is the aviation authority for Brazil, has issued Brazilian Airworthiness Directive 2013-10-02, dated October 23, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition certain Empresa Brasileira de Aeronautica S.A. (Embraer) Model EMB-135BJ airplanes. The MCAI states:

This [Brazilian] AD was prompted by reports of failure of the bolts that connect the lower eyelet fitting of the cockpit windshield center-post to the forward fuselage. We are issuing this [Brazilian] AD to detect failed bolts and correct the attaching parts of the lower eyelet fitting of the cockpit windshield center-post, which could lead to loss of structural integrity of the airplane.

Required actions include repetitive detailed inspections for discrepancies on the attaching parts of the lower eyelet fitting of the cockpit windshield center-post; a bolt check, if applicable; and modification of the attaching parts of the lower eyelet fitting of the cockpit windshield center-post, including a general visual inspection for damage of the specified lower eyelet fitting and repair of the damage. The modification would terminate the repetitive detailed inspections. You may examine the MCAI in the AD docket on the Internet at <http://www.regulations.gov/#!documentDetail;D=FAA-2014-0234-0002>.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (79 FR 21160, April 15, 2014) or on the determination of the cost to the public.

“Contacting the Manufacturer” Paragraph in this AD

Since late 2006, we have included a standard paragraph titled “Airworthy Product” in all MCAI ADs in which the FAA develops an AD based on a foreign authority’s AD.

The MCAI or referenced service information in an FAA AD often directs the owner/operator to contact the manufacturer for corrective actions, such as a repair. Briefly, the Airworthy Product paragraph allowed owners/operators to use corrective actions provided by the manufacturer if those actions were FAA-approved. In addition, the paragraph stated that any actions approved by the State of Design Authority (or its delegated agent) are considered to be FAA-approved.

In the NPRM (79 FR 21160, April 15, 2014), we proposed to prevent the use of repairs that were not specifically developed to correct the unsafe condition, by requiring that the repair approval provided by the State of Design Authority or its delegated agent specifically refer to this FAA AD. This change was intended to clarify the method of compliance and to provide operators with better visibility of repairs that are specifically developed and approved to correct the unsafe condition. In addition, we proposed to change the phrase “its delegated agent” to include a design approval holder (DAH) with

State of Design Authority design organization approval (DOA), as applicable, to refer to a DAH authorized to approve required repairs for the proposed AD.

No comments were provided to the NPRM (79 FR 21160, April 15, 2014) about these proposed changes. However, a comment was provided for an NPRM having Directorate Identifier 2012-NM-101-AD (78 FR 78285, December 26, 2013). The commenter stated the following: “The proposed wording, being specific to repairs, eliminates the interpretation that Airbus messages are acceptable for approving minor deviations (corrective actions) needed during accomplishment of an AD mandated Airbus service bulletin.”

This comment has made the FAA aware that some operators have misunderstood or misinterpreted the Airworthy Product paragraph to allow the owner/operator to use messages provided by the manufacturer as approval of deviations during the accomplishment of an AD-mandated action. The Airworthy Product paragraph does not approve messages or other information provided by the manufacturer for deviations to the requirements of the AD-mandated actions. The Airworthy Product paragraph only addresses the requirement to contact the manufacturer for corrective actions for the identified unsafe condition and does not cover deviations from other AD requirements. However, deviations to AD-required actions are addressed in 14 CFR 39.17, and anyone may request the approval for an alternative method of compliance to the AD-required actions using the procedures found in 14 CFR 39.19.

To address this misunderstanding and misinterpretation of the Airworthy Product paragraph, we have changed that paragraph and retitled it “Contacting the Manufacturer.”

This paragraph now clarifies that for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the FAA, ANAC, or ANAC's authorized Designee.

The Contacting the Manufacturer paragraph also clarifies that, if approved by the ANAC Designee, the approval must include the Designee's authorized signature. The Designee signature indicates that the data and information contained in the document are ANAC-approved, which is also FAA-approved. Messages and other information provided by the manufacturer that do not contain the ANAC Designee's authorized signature approval are not ANAC-approved, unless ANAC directly approves the manufacturer's message or other information.

This clarification does not remove flexibility previously afforded by the Airworthy Product paragraph. Consistent with long-standing FAA policy, such flexibility was never intended for required actions. This is also consistent with the recommendation of the Airworthiness Directive Implementation Aviation Rulemaking Committee to increase flexibility in complying with ADs by identifying those actions in manufacturers' service instructions that are "Required for Compliance" with ADs. We continue to work with manufacturers to implement this recommendation. But once we determine that an action is required, any deviation from the requirement must be approved as an alternative method of compliance.

Other commenters to the NPRM having Directorate Identifier 2012-NM-101-AD (78 FR 78285, December 26, 2013) pointed out that in many cases the foreign manufacturer's service bulletin and the foreign authority's MCAI might have been issued

some time before the FAA AD. Therefore, the DOA might have provided U.S. operators with an approved repair, developed with full awareness of the unsafe condition, before the FAA AD is issued. Under these circumstances, to comply with the FAA AD, the operator would be required to go back to the manufacturer's DOA and obtain a new approval document, adding time and expense to the compliance process with no safety benefit.

Based on these comments, we removed the requirement that the DAH-provided repair specifically refer to this AD. Before adopting such a requirement, the FAA will coordinate with affected DAHs and verify they are prepared to implement means to ensure that their repair approvals consider the unsafe condition addressed in this AD. Any such requirements will be adopted through the normal AD rulemaking process, including notice-and-comment procedures, when appropriate.

We also have decided not to include a generic reference to either the “delegated agent” or “DAH with State of Design Authority design organization approval,” but instead we have provided the specific delegation approval granted by the State of Design Authority for the DAH throughout this AD.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting this AD with the changes described previously and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (79 FR 21160, April 15, 2014) for correcting the unsafe condition; and

- Do not add any additional burden upon the public than was already proposed in the NPRM (79 FR 21160, April 15, 2014).

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Costs of Compliance

We estimate that this AD affects 56 airplanes of U.S. registry.

We also estimate that it would take about 35 work-hours per product to comply with the basic requirements of this AD. The average labor rate is \$85 per work hour. Required parts would cost about \$386 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be \$188,216, or \$3,361 per product.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD.

Authority for this Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority

because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a “significant regulatory action” under Executive Order 12866;
2. Is not a “significant rule” under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov/#!docketDetail;D=FAA-2014-0234>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800-647-5527) is in the ADDRESSES section.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39 - AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2014-16-28 Empresa Brasileira de Aeronautica S.A. (Embraer): Amendment 39-17952. Docket No. FAA-2014-0234; Directorate Identifier 2013-NM-220-AD.

(a) Effective Date

This AD becomes effective [INSERT DATE 35 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

(b) Affected ADs

None.

(c) Applicability

This AD applies to Empresa Brasileira de Aeronautica S.A. (Embraer) Model EMB-135BJ airplanes, certificated in any category, as identified in Embraer Alert Service Bulletin 145LEG-53-A032, Revision 01, dated September 24, 2013.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Reason

This AD was prompted by reports of failure of the bolts that connect the cockpit windshield center-post to the forward fuselage. We are issuing this AD to prevent failed bolts and failed attaching parts of the cockpit windshield center-post, which could lead to loss of structural integrity of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Detailed Inspection

At the applicable time specified in paragraph (g)(1) or (g)(2) of this AD, do a detailed inspection to detect discrepancies on the attaching parts of the lower eyelet fitting of the cockpit windshield center-post and, if applicable, check whether the bolts are tightened, in accordance with Part I of the Accomplishment Instructions of Embraer Alert Service Bulletin 145LEG-53-A032, Revision 01, dated September 24, 2013. If any discrepancy is found or if any bolt is not tightened, do the actions specified in paragraph (h) of this AD before further flight. Repeat the detailed inspection thereafter at intervals not to exceed 50 flight cycles until the modification required by paragraph (h) of this AD is done.

(1) For airplanes identified as Group 1 in Embraer Alert Service Bulletin 145LEG-53-A032, Revision 01, dated September 24, 2013, on which the actions of Embraer Service Bulletin 145LEG-53-0021, has been done: Do the detailed inspection within 3,000 flight cycles after accomplishment of the actions of Embraer Service Bulletin 145LEG-53-0021, or within 50 flight cycles after the effective date of this AD, whichever occurs later.

(2) For airplanes identified as Group 2 airplanes in Embraer Alert Service Bulletin 145LEG-53-A032, Revision 01, dated September 24, 2013: Do the detailed inspection before the accumulation of 3,000 total flight cycles, or within 50 flight cycles after the effective date of this AD, whichever occurs later.

(h) Modification

Except as required by paragraph (g) of this AD, at the applicable time specified in paragraphs (h)(1) or (h)(2) of this AD, modify the attaching parts of the lower eyelet fitting of the cockpit windshield center-post, including a general visual inspection for any damage (cracks, dents, scratches) of the specified lower eyelet fitting, in accordance with Part II of the Accomplishment Instructions of Embraer Alert Service Bulletin 145LEG-53-A032, Revision 01, dated September 24, 2013. If any damage is found during the general visual inspection, before further flight, repair using a method approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA; or Agência Nacional de Aviação Civil (ANAC); or ANAC's authorized Designee. If approved by the ANAC Designee, the approval must include the Designee's authorized signature. Accomplishment of the modification terminates the repetitive inspections required by paragraph (g) of this AD.

(1) For airplanes identified as Group 1 in Embraer Alert Service Bulletin 145LEG-53-A032, Revision 01, dated September 24, 2013, on which the actions specified in Embraer Service Bulletin 145LEG-53-0021, has been done: Do the modification before the accumulation of 3,000 flight cycles after doing the actions specified in Embraer Service Bulletin 145LEG-53-0021, or within 300 flight cycles after the effective date of this AD, whichever occurs later.

(2) For airplanes identified as Group 2 in Embraer Alert Service Bulletin 145LEG-53-A032, Revision 01, dated September 24, 2013: Do the modification before

the accumulation of 3,000 total flight cycles, or within 300 flight cycles after the effective date of this AD, whichever occurs later.

(i) Credit for Previous Actions

This paragraph provides credit for actions required by paragraphs (g) and (h) of this AD, if those actions were performed before the effective date of this AD using Embraer Alert Service Bulletin 145LEG-53-A032, dated September 20, 2013, which is not incorporated by reference in this AD.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM-116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Todd Thompson, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057-3356; telephone 425-227-1175; fax 425-227-1149. Information may be emailed to: 9-ANM-116-AMOC-REQUESTS@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) Contacting the Manufacturer: For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM-116, Transport Airplane

Directorate, FAA; or ANAC; or ANAC's authorized Designee. If approved by the ANAC Designee, the approval must include the Designee's authorized signature.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Brazilian Airworthiness Directive 2013-10-02, dated October 23, 2013, for related information.

This MCAI may be found in the AD docket on the Internet at

<http://www.regulations.gov/#!documentDetail;D=FAA-2014-0234-0002>.

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (l)(3) and (l)(4) of this AD.

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Embraer Alert Service Bulletin 145LEG-53-A032, Revision 01, dated September 24, 2013.

(ii) Reserved.

(3) For service information identified in this AD, contact Empresa Brasileira de Aeronautica S.A. (Embraer), Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170 - Putim - 12227-901 São Jose dos Campos - SP – BRASIL; telephone

+55 12 3927-5852 or +55 12 3309-0732; fax +55 12 3927-7546; email

distrib@embraer.com.br; Internet <http://www.flyembraer.com>.

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to:

<http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued in Renton, Washington, on August 7, 2014.

Victor Wicklund,
Acting Manager,
Transport Airplane Directorate,
Aircraft Certification Service.

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